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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,092	05/22/2001	Donald R. Glover	7590.24US01	9012

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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,092

Applicant(s)

GLOVER, DONALD R.

Examiner

Christopher Bottorff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-11 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 6-11 and 13-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-11, 13-19, 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

The amendment filed December 20, 2002 has been entered. Claims 4, 5, and 12 are canceled. Claims 18-22 are added. Claims 1-3, 6-11, and 13-22 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 20 and 21 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, claims 20 and 21 define scooter dimensions of 12 and 16 inches respectively, which is not disclosed in the original specification. Applicant is required to cancel the new matter in the reply to this Office Action, and claims 20 and 21 have been withdrawn from further consideration.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 states that each recess is adapted for receiving a plurality of wheeled items therein. However, the disclosure indicates that only one wheeled item can be received in each recess. The disclosure does not clearly explain how each recess can receive a plurality of wheeled items, as claimed. For the purposes of examination, claim 3 has been interpreted as defining each recess as being adapted to receive a wheeled item therein.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wetzel US 3,374,000.

Wetzel discloses a toy sled having a body 10, 16 and two wheeled items in the form of floor scooters with a wheels 26, 28 connected to square base pieces 30. See Figures 1-5. The body includes a top surface (the upper side of platform 10) adapted for receiving a plurality of riders and a bottom surface (the lower side of bottom member 16) comprising first and second engagement recesses 12, 24 adapted for receiving the

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wheeled items. First and second attachment mechanisms, in the form of flanges that extend inward and partially cover recesses 12 and 24, removably secure the wheeled items in the engagement recesses. See Figure 5. A first handle 22 is included on the body and a second handle (curled side edge 50) extends along the length of the body. See Figures 1 and 5 and column 3, lines 14-16. Also, the body includes a connector 44 at a first end and a connector receptor 21 at a second end. See Figures 1 and 2 and column 2, line 63, through column 3, line 5.

The base piece 30 of each wheeled item includes a first side and a second side. The wheel is rotatably connected to the first side of the base piece and the first side of the base piece is positioned between the wheel and the second side of the base piece. The second side of the base piece is secured to the body so that the wheel extends away from the body. See Figure 5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 7-10, 14, 15, 18, 19, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wetzel alone.

Wetzel discloses the sled discussed above. However, Wetzel does not disclose that each wheeled item includes a plurality of wheels.

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However, providing each wheeled item with a plurality of wheels is an obvious duplication of the parts of Wetzel that would not provide a new and unexpected result. See *In re Harza* 124 USPQ 178 (CCPA 1960). Providing each wheeled item includes a plurality of wheels would have been obvious to one of ordinary skill in the art at the time the invention was made in order to offer greater stability and support to the body.

In regard to claims 7, 8, 14, and 15, Wetzel discloses the well known practice of forming sled devices of plastic. See column 2, lines 20 and 21. However, Wetzel does not disclose that the body comprises a polymeric material, particularly polyethylene. Applicant has indicated that this is not a critical feature of the invention and that the body can be made from any material. See page 5, lines 26-28 of the specification. The criticality of the claimed polymeric material must be established before such a distinction may be relied upon as evidence of unobviousness.

The examiner takes official notice that the practice of forming sled components of polyethylene was old and well known in the art at the time the invention was made. Forming the body of Wetzel of polyethylene would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide the body with a relatively lightweight and durable composition.

In regard to claim 18, the claimed dimensions are not disclosed as being critical. In fact, on line 39 of page 6 through line 1 of page 7 of the specification Applicant states that the sled "can be shaped and sized as desired" and that the sled "can be essentially any shape and size". The claimed dimensions are merely an optimization of the sled's size that would have been ascertained by one of ordinary skill in the art through routine

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experimentation. Forming the dimensions of the sled as claimed would have been obvious to one of ordinary skill in the art at the time the invention was made in order to appropriately size the sled for a particular user or a particular application.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wetzel US 3,374,000 in view of Hoff US 3,822,069.

Wetzel does not disclose that the wheels are caster wheels and that there are four of them. Hoff teaches that the practice of providing a sled with caster wheels was old and well known in the art at the time the invention was made. See column 3, lines 18-25. From the teachings of Hoff, providing the sled of Wetzel with caster wheels would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the sled to move in any desired direction. Also, providing four wheels represents an obvious duplication of parts, as discussed in regard to claim 1, and the disclosure does not establish that this specific number of wheels is critical to the invention.

Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wetzel US 3,374,000 in view of Matheny US 5,810,376.

Wetzel does not disclose that the attachment mechanism comprises a bolt. However, Matheny teaches that the use of bolts 40 and 46 with attachment mechanisms was well known in the art at the time the invention was made. See figure 3. From the teaching of Matheny, providing the attachment mechanism of Wetzel with a

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bolt would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the wheeled items to be removably secured by an inexpensive and reliable connector. Also, Applicant indicates that the use of a bolt is not critical. See page 5, lines 5-8, of the specification.

Response to Arguments

Applicant's arguments with respect to previously rejected claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

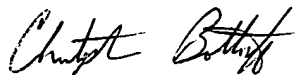
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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bergsland discloses a sled with connectors and receptors. Heckman, Holmes, Plaza, Liu, Berry, Tucker, and Hensley, Jr. disclose creeper assemblies. Lee, Mitchell et al., Bertrand, Reese, Pickard, and Karashima disclose various sleds and wheeled items.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher Bottorff
March 6, 2003


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3/7/03